

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

WAYNE SMART a/k/a COLIN GREENAWAY

Defendant.

DECISION AND ORDER
07-CR-29S

1. On October 25, 2010, the Defendant entered into a written plea agreement (Docket No. 168) and pled guilty to Count 3 and Count 4 of the Superceding Indictment (Docket No. 84) charging violations of Title 21, U.S.C. Section 841(a)(1) possession with intent to distribute, and distribution, of 3,4-methylenedioxymethamphetamine (MDMA) and Title 18, U.S.C. Section 924(c)(1)(A), using and carrying a firearm during and in relation to, and possessing a firearm in furtherance of, a drug trafficking crime.

2. On October 28, 2010, the Honorable Hugh B. Scott, United States Magistrate Judge, filed a Report and Recommendation (Docket No. 170) recommending that Defendant's pleas of guilty be accepted and the Defendant adjudicated guilty.

3. This Court has not received objections to the Report and Recommendation in accordance with 28 U.S.C. §636(b)(1)(C) and Local Rule 58.2(a)(3).

4. This Court has carefully reviewed *de novo* Judge Scott's Report and Recommendation, the plea agreement, transcript of the proceeding, and the applicable law. Upon due consideration, this Court finds no legal or factual error in Judge Scott's Report and Recommendation, and will accept Judge Scott's recommendation that Defendant's plea of guilty be accepted and that the Defendant be adjudicated guilty as charged.

IT HEREBY IS ORDERED, that this Court accepts Judge Scott's Report and Recommendation (Docket No. 170) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the plea of guilty of Defendant Wayne Smart a/k/a Coling Greenaway is accepted, and he is now adjudged guilty of Title 21, U.S.C. Section 841(a)(1) and Title 18, U.S.C. Section 924(c)(1)(A)

SO ORDERED.

Dated: November 18, 2010
Buffalo, New York

s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court